

## Senate Bill No. 54

### CHAPTER 21

An act to amend Sections 11126, 20443, 20445, 20618, 20678, 20687, 20688, 21061, 21073.1, 21073.7, 21290, 21298, 21353, 21355, 21357, 21362, 21362.2, 21363, 21363.1, 21364, 21369.1, 21423, 21465, 21572, 21573, 21574, 21574.5, and 21574.7 of, and to repeal Sections 21362.1, 21363.5, 21363.7, 21389, 21400, 21402, 21403, and 21465.5 of, the Government Code, relating to public employees' retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 25, 2001. Filed with  
Secretary of State June 25, 2001.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 54, Polanco. Public employees' retirement: school employers' assets.

(1) The Bagley-Keene Open Meeting Act generally requires all meetings of a state body to be open and public. Under the act, a state body or its designated representative is not prevented from holding closed sessions with its representatives in discharging the responsibilities of the state body under the Meyers-Milias-Brown Act as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. The Meyers-Milias-Brown Act governs local government employer-employee relations.

This bill would extend the above described provision to closed sessions of a state body or its designated representatives when discharging responsibilities of the state body under the Ralph C. Dills Act, which governs state employer-employee relations; the Bill of Rights for State Excluded Employees; and the Educational Employment Relations Act, which governs public school employer-employee relations.

(2) Under the Public Employees' Retirement Law, local safety members subject to the 2% at age 50 benefit formula pay contributions equal to 9% of compensation, as defined, and those members subject to the 3% at age 55 benefit formula pay contributions equal to 8% of compensation. Existing law does not specify a contribution rate for local safety members subject to the 3% at age 50 benefit formula. Member contributions are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would provide that local safety members subject to either the 3% at age 50 or the 3% at age 55 benefit formula shall pay contributions equal to 9% of compensation. By increasing the amount of employee contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(3) Existing law provides that members of the Public Employees' Retirement System subject to Second Tier benefits, as defined, may elect to become subject to First Tier benefits, as specified. Existing law also provides for the establishment of separate member and nonmember accounts upon the legal separation or dissolution of marriage of a member and division of the community estate.

This bill would authorize a nonmember spouse whose separate account is credited with service subject to Second Tier benefits to elect to have that service subject to First Tier benefits subject to specified conditions and additional contributions, thereby making an appropriation.

(4) The Public Employees' Retirement Law provides that the maximum service retirement benefit payable to state patrol members employed by the state on or after January 1, 2000, shall not exceed 90% of final compensation, as defined.

This bill would provide that the 90% maximum benefit limit shall also apply to former state patrol members who retire on and after January 1, 2000.

(5) The Public Employees' Retirement Law provides that a 3% at age 55 benefit formula for state peace officer/firefighter members employed by the California State University on January 1, 2000.

This bill would make that benefit formula available to those members formerly employed by the California State University, as specified.

(6) The Public Employees' Retirement Law prescribes specified survivor benefits for state and school members and authorizes contracting agencies to elect from among several alternative survivor allowance benefit levels.

This bill would specify that assets and liabilities of state and school employers on account of those survivor benefits shall be pooled in separate accounts and provide that 2 of the optional benefit levels shall no longer be available to new contracting agencies or future contract amendments as of specified dates.

(7) The bill would also make technical changes.

(8) The bill would declare that it is to take effect immediately as an urgency statute and declare that its provisions would be operative retroactively to January 1, 2000, except as specified.

Appropriation: yes.



*The people of the State of California do enact as follows:*

SECTION 1. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, “employee” shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee shall include a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an



applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining



to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.



(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525, or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the



closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, “litigation” includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant’s qualifications.

(4) Prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter that properly could





be considered in a closed session by the body defined as a state body pursuant to Section 11121 or 11121.2.

(6) Prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article shall not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

SEC. 2. Section 20443 of the Government Code is amended to read:

20443. A member who is employed in a position that is reclassified from local miscellaneous to local safety and is made subject to a safety service retirement benefit, other than that provided in Section 21362, 21362.2, or 21363.1, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with the board within 90 days after notification by the board.

SEC. 3. Section 20445 of the Government Code is amended to read:





20445. A member employed with a school district or community college district, as defined in subdivision (i) of Section 20057, who is in a position that qualifies as a school safety member and made subject to a safety service retirement benefit other than that provided in Section 21362, 21362.2, or 21363.1 may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with the board within 90 days after notification by the board.

SEC. 4. Section 20618 of the Government Code is amended to read:

20618. (a) The assets and liabilities arising out of contracts with school employers, as defined in Section 20063, shall be merged, excluding that portion of a contract that provides benefits pursuant to Section 21623.6, that portion of a contract with respect to local police officers, as defined in Section 20430, and those contracts with school districts or community college districts, as defined in subdivision (i) of Section 20057, that employ school safety members, as defined in Section 20444. Employer accumulated contributions credited to those entities on June 30, 1982, and all the contributions paid by a school employer after June 30, 1982, shall be held exclusively for the benefit of school members, retired school members, and their beneficiaries.

(b) Effective December 31, 1999, any service previously credited as local miscellaneous service with the Los Angeles Unified School District or the Los Angeles Community College District shall be considered service credit with a school employer. A person who is a member under a contract between the board and school districts or community college districts prior to July 1, 1983, shall not be denied any right extended to him or her by reason of that membership.

SEC. 5. Section 20678 of the Government Code is amended to read:

20678. (a) For each local safety member subject to Section 21362, 21362.2, or 21363.1 by reason of the amendment of his or her employer's contract, or on the later date of entrance into this system, the normal rate of contribution shall be 9 percent of the compensation paid to those members. For those members whose service is included in the federal system, the normal rate of contribution shall be 9 percent of the compensation in excess of one hundred thirty-three dollars and thirty-three cents (\$133.33) per month paid to those members.

(b) The normal rate of contribution for local safety members subject to Section 21363 shall be 8 percent of the compensation paid to those members. For those members whose service is included in the federal system, the normal rate of contribution shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars (\$238.00) per month paid to those members.



(c) Notwithstanding subdivision (b), the normal rate of contribution for local safety members of the City of Sacramento subject to Section 21363 shall be 9 percent of the compensation paid to those members.

(d) No adjustment shall be included in rates adopted under this section as the result of amendments hereto, changing the time at which members may retire or the benefits members will receive, because of time during which members have contributed at different rates prior to the adoption.

(e) The amendments to this section enacted during the first year of the 2001–02 Regular Session shall be operative retroactively to January 1, 2000.

SEC. 6. Section 20687 of the Government Code is amended to read:

20687. (a) The normal rate of contribution for state peace officer/firefighter members subject to Section 21363 or 21363.1 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars (\$238) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 7. Section 20688 of the Government Code is amended to read:

20688. The normal rate of contribution otherwise established under this article for a local safety member whose retirement allowance is determined under Section 21362, 21362.2, 21363.1, or 21366, and reduced under Section 21367 because his or her service is included in the federal system, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars (\$400) for services rendered in any month after the date of execution of the modification of the federal-state agreement, including services in the federal system, or the effective date of the contract or contract amendment pursuant to which a contracting agency and its employees become subject to this section, whichever is later, and prior to the date upon which services of persons in his or her employment cease to be covered under the federal system.

SEC. 8. Section 21061 of the Government Code is amended to read:

21061. (a) A local safety member, other than one subject to Section 21362 or 21362.2, shall be retired for service upon the member's written application to the board if the member has attained the age of 55 years, and is credited with five years of state service.

(b) Subdivision (a) does not apply to the employees of any contracting agency having a contract with the board made prior to



September 5, 1945, which contract specifies an age greater than the age of 55 years as the minimum age for voluntary retirement for service for local safety members, until the agency elects to make subdivision (a) applicable to its employees, by amendment to its contract made in the manner prescribed for the approval of contracts, except that an election among the employees is not required.

Until the contracting agency elects to make subdivision (a) applicable to its employees, a local safety member employed by the contracting agency shall be retired for service upon the member's written application to the board if the member has attained the minimum age for voluntary retirement specified in the contract between his or her employer and the board, and is credited with five years of state service.

SEC. 9. Section 21073.1 of the Government Code is amended to read:

21073.1. (a) Effective January 1, 2000, a member who elects to receive service credit under Section 21354.1, as authorized by Section 21073.7, for time during which the member received service credit subject to Section 21076 or 21077, shall deposit an amount equal to any accumulated contributions the member withdrew pursuant to Section 20737, plus the interest that would have been credited to the member's account had the contributions not been withdrawn, and any contributions the member would have made, plus an amount equal to the interest that would have been credited to those contributions, had the member not been subject to Section 21076 or 21077. This deposit shall be made in a lump sum or by installments, with interest through the completion of payments, over that period and subject to minimum payment amounts as may be prescribed by regulations of the board. Alternatively, this deposit requirement may be satisfied by an actuarial equivalent reduction in the member's retirement allowance.

(b) The board, in addition to its general rulemaking authority under Section 20121, may adopt regulations that implement this section. Those regulations shall be exempt from review by the Office of Administrative Law. However, the board shall transmit those regulations to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(c) The amendments to this section enacted during the first year of the 1999-2000 Regular Session are subject to the limitations set forth in Section 21251.13.

SEC. 10. Section 21073.7 of the Government Code is amended to read:

21073.7. (a) A member subject to the Second Tier benefits provided in Section 21076 or 21077 who is employed by the state on or after January 1, 2000, may make an irrevocable election, to be filed with



the board, to be subject to the First Tier benefits provided in Section 21354.1 and to make the contributions specified in Section 20677. An election to be subject to Section 21354.1 may be made at any time prior to retirement and shall be signed by the member's spouse. An election shall be effective the first day of the month following the date the election is received by the system and shall be applicable to state service rendered on and after that date. However an election made by a member who retires prior to or on the first day of the month following the system's receipt of the election shall be effective one day prior to the effective date of the member's retirement.

(b) A member who is employed by the state on or after January 1, 2000, with past service credited under the Second Tier may make an irrevocable election, at any time prior to retirement, to have his or her past Second Tier service credited under Section 21354.1 by making contributions specified in Section 21073.1. This subdivision shall not apply to a Second Tier member eligible to make the election provided in subdivision (a) until after the effective date of that election.

(c) A member subject to modified First Tier benefits pursuant to Section 21353.5 shall become subject to Section 21353 or 21354.1, as applicable, and make contributions as specified in Section 20677. The member's past service and contributions credited as modified First Tier under Section 21353.5 shall be converted to First Tier service and contributions and shall be subject to Section 21353 or 21354.1, as applicable. Contributions previously credited as modified First Tier and withdrawn by the member may be redeposited under the conditions specified in Section 20750, with the service credit and contributions subject to Section 21353 or 21354.1, as applicable.

(d) Operation and application of this section is subject to the limitations set forth in Section 21251.13.

SEC. 11. Section 21290 of the Government Code is amended to read:

21290. (a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the community property is divided in accordance with paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court shall order that the accumulated contributions and service credit attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember, respectively. Any service credit or accumulated contributions that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.



(c) The court shall address the rights of the nonmember to the following:

(1) The right to a retirement allowance, and the consequent right to elect an optional settlement and designate a beneficiary.

(2) The right to a refund of accumulated contributions.

(3) The right to redeposit accumulated contributions that are eligible for redeposit by the member under Sections 20750 and 20752.

(4) The right to purchase service credit that is eligible for purchase by the member under Article 4 (commencing with Section 20990) and Article 5 (commencing with Section 21020) of Chapter 11.

(5) The right to designate a beneficiary to receive his or her accumulated contributions payable where death occurs prior to retirement.

(6) The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember's death.

(7) The right to elect coverage in the Second Tier for that member service that is subject to the Second Tier, provided that the election is made within one year of the establishment of the nonmember account or prior to the nonmember's retirement, whichever occurs first. Immediately upon establishment of a nonmember account, the board shall provide, by certified mail, the necessary form and information so that the election may be made.

(d) In the capacity of nonmember, he or she shall not be entitled to any disability or industrial disability retirement allowance, any basic death benefit, any special death benefit, any monthly allowance for survivors of a member or retired person, any insurance benefit, or retired member lump-sum death benefit. No survivor continuance allowance shall be payable to a survivor of a nonmember.

(e) (1) A nonmember whose account is credited with service subject to the Second Tier benefits provided in Section 21076 or 21077 may make an irrevocable election, to be filed with the board, to have his or her Second Tier service credited under Section 21354.1, if the following conditions are met:

(A) The member is employed by the state on or after January 1, 2000.

(B) If eligible, the member has made the election provided in subdivision (a) of Section 21073.7 at the time of the nonmember's election.

(2) An election under this subdivision shall be effective the first of the month following the date the election is received by the system. An election under this subdivision may be made at any time prior to the retirement of the nonmember or prior to payment of a refund of the accumulated contributions in the separate account of the nonmember. A



nonmember who makes the election under this subdivision shall make the contributions specified in Section 21073.1.

(3) The term “member” as used in this subdivision means the person from whose account the Second Tier service that is credited to the separate account of the nonmember was derived.

SEC. 12. Section 21298 of the Government Code is amended to read:

21298. (a) A nonmember entitled to receive a retirement allowance shall receive a retirement allowance based on the service retirement formula applicable to the service credited to the nonmember.

(b) The retirement allowance shall consist of a pension and an annuity, the latter of which shall be derived from the nonmember’s accumulated contributions. The nonmember’s retirement allowance, based upon the service credited by the employer and the nonmember’s effective date of retirement, shall be subject to all cost-of-living increases, ad hoc increases, and increases provided by Section 21337.

(c) If, prior to the nonmember’s retirement, there is any increase in the service retirement formula that applies to service credited to the nonmember, that increase shall apply to the applicable service credited to the nonmember, provided that the same increase also applies to the applicable service credited to the member from whose account the nonmember’s service was derived.

SEC. 13. Section 21353 of the Government Code is amended to read:

21353. (a) The combined current and prior service pensions for a local miscellaneous member, a school member, a state miscellaneous or state industrial member, or a university member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member’s final compensation set forth opposite the member’s age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state or state industrial member, local miscellaneous member, school member, or a university member, or service covered under this First Tier retirement formula, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50 .....	.546
50 <sup>1</sup> / <sub>4</sub> .....	.554

50 <sup>1</sup> / <sub>2</sub> .....	.562
50 <sup>3</sup> / <sub>4</sub> .....	.570
51 .....	.578
51 <sup>1</sup> / <sub>4</sub> .....	.586
51 <sup>1</sup> / <sub>2</sub> .....	.595
51 <sup>3</sup> / <sub>4</sub> .....	.603
52 .....	.612
52 <sup>1</sup> / <sub>4</sub> .....	.621
52 <sup>1</sup> / <sub>2</sub> .....	.630
52 <sup>3</sup> / <sub>4</sub> .....	.639
53 .....	.648
53 <sup>1</sup> / <sub>4</sub> .....	.658
53 <sup>1</sup> / <sub>2</sub> .....	.668
53 <sup>3</sup> / <sub>4</sub> .....	.678
54 .....	.688
54 <sup>1</sup> / <sub>4</sub> .....	.698
54 <sup>1</sup> / <sub>2</sub> .....	.709
54 <sup>3</sup> / <sub>4</sub> .....	.719
55 .....	.730
55 <sup>1</sup> / <sub>4</sub> .....	.741
55 <sup>1</sup> / <sub>2</sub> .....	.753
55 <sup>3</sup> / <sub>4</sub> .....	.764
56 .....	.776
56 <sup>1</sup> / <sub>4</sub> .....	.788
56 <sup>1</sup> / <sub>2</sub> .....	.800
56 <sup>3</sup> / <sub>4</sub> .....	.813
57 .....	.825
57 <sup>1</sup> / <sub>4</sub> .....	.839
57 <sup>1</sup> / <sub>2</sub> .....	.852
57 <sup>3</sup> / <sub>4</sub> .....	.865
58 .....	.879
58 <sup>1</sup> / <sub>4</sub> .....	.893
58 <sup>1</sup> / <sub>2</sub> .....	.908
58 <sup>3</sup> / <sub>4</sub> .....	.923
59 .....	.937
59 <sup>1</sup> / <sub>4</sub> .....	.953
59 <sup>1</sup> / <sub>2</sub> .....	.969
59 <sup>3</sup> / <sub>4</sub> .....	.985
60 .....	1.000





60 <sup>1</sup> / <sub>4</sub> .....	1.017
60 <sup>1</sup> / <sub>2</sub> .....	1.034
60 <sup>3</sup> / <sub>4</sub> .....	1.050
61 .....	1.067
61 <sup>1</sup> / <sub>4</sub> .....	1.084
61 <sup>1</sup> / <sub>2</sub> .....	1.101
61 <sup>3</sup> / <sub>4</sub> .....	1.119
62 .....	1.136
62 <sup>1</sup> / <sub>4</sub> .....	1.154
62 <sup>1</sup> / <sub>2</sub> .....	1.173
62 <sup>3</sup> / <sub>4</sub> .....	1.191
63 and over .....	1.209

(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars (\$400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in the federal system benefits.

(d) With the exception of state miscellaneous members for service rendered for the California State University or the legislative or judicial branch of government, this section shall apply to state miscellaneous and state industrial members who are not employed by the state on or after January 1, 2000.

SEC. 14. Section 21355 of the Government Code is amended to read:

21355. Notwithstanding Sections 21353, 21354, and 21354.1, if the modification to the federal-state agreement occurred on or after July 1, 1971, whenever the fraction of final compensation is reduced pursuant to Section 21353, 21354, or 21354.1 because service of a member has been included in the federal system, the reduction shall apply only as to service after the effective date of the member's coverage under the federal system. This section shall apply to those members whose effective date of retirement is on or after July 1, 1971.

SEC. 15. Section 21357 of the Government Code is amended to read:

21357. (a) For a member reinstated from service retirement or partial service retirement, the current service pension, or current and prior service pensions, as the case may be, upon his or her service retirement subsequent to the reinstatement, shall be the sum of (1) a current service pension calculated on the basis of service rendered after reinstatement in accordance with the formula applicable to him or her in that service and membership, plus, (2) if the subsequent retirement occurs before he or she renders, after his or her reinstatement, at least one year of state service credited under this system, or if the subsequent service or disability retirement occurs after his or her reinstatement from service or disability retirement pursuant to an election under Section 21465, his or her current service pension, or current and prior service pensions, as the case may be, as it was prior to his or her reinstatement, adjusted for any service on which the pension was based that was included in coverage of the federal system during reinstatement according to the formula applicable to the service in employment for which he or she was retired, and further adjusted according to any change after reinstatement in the provisions governing the calculation of his or her pension that would have applied to him or her had he or she continued in retirement but been subject to the formula applied in the first adjustment; or, for state miscellaneous and state industrial service subject to Section 21076, in lieu of (2), plus (3) a current service pension, or current and prior service pensions, as the case may be, as it would have been prior to his or her reinstatement under the formula applicable to Section 21076, adjusted for any service on which the pension was based that was included in coverage of the federal system during reinstatement according to the formula applicable to the service in employment for which he or she was retired, and further adjusted according to any change after reinstatement in the provisions governing the calculations of his or her pension that would have applied to him or her had he or she continued in retirement and been subject to the formula applicable to Section 21076, or if he or she has rendered one year or more of state service after reinstatement, in lieu of (2) or (3), plus (4), a current service pension based on current service rendered prior to reinstatement, calculated on the basis of the formula currently applicable to the employment in which the service was rendered but on the basis of an age taken to the preceding completed quarter year but not less than the minimum retirement age applicable to him or her at his or her last retirement and determined by deducting from his or her age at his or her subsequent retirement, the aggregate time during which he or she was under retirement. For a member reinstated from nonindustrial disability retirement, the current



service pension upon his or her service retirement after attaining an age one year less than the minimum age at which he or she could have retired without an actuarial discount because of age in the employment from which he or she was last retired, or upon his or her disability retirement after attaining the minimum age, and subsequent to reinstatement, shall be calculated in the manners described in the preceding sentence, but the age determined upon subsequent retirement after rendering at least one year of state service credited under this system shall not be taken at less than one year less than the minimum age if the subsequent retirement is for service, or the minimum age if the retirement is for disability.

(b) The current service pension otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his or her election under Section 21461 shall be reduced by the actuarial equivalent, on the date of retirement subsequent to reinstatement, of the amount (converted as below), if any, by which:

(1) The total amount paid in the period during which a temporary annuity was included in the payments, reduced by the total amount that would have been payable during that period had the election not been made, exceeds

(2) The excess of the total amount that would have been payable, had the election not been made, during the time subsequent to that period and prior to reinstatement, over the total amount actually paid during that time.

The amount determined by the above formula shall be converted to an amount equaling the actuarial equivalent on the date of reinstatement and this latter amount shall be the basis of the actuarial equivalent on the date of retirement subsequent to reinstatement.

Actuarial equivalents required by this section shall be based on the interest rate and mortality tables in use by this system on the date of retirement subsequent to reinstatement.

(c) Notwithstanding this section, or any other provision of this part, the current service pension payable to any member subject to this section who rendered one year or more of state service credited under this system after reinstatement on retirement for service subsequent to reinstatement from service retirement for any credited service for which a current service pension was paid prior to reinstatement shall not be less than the current service pension that would be payable on the date of the subsequent retirement had the member not been reinstated. For state miscellaneous and state industrial service subject to Section 21076, the current service pension payable for any credited service for which a current service pension was paid prior to reinstatement shall not be less than the current service pension that would have been payable on the date of the subsequent retirement had the member's retirement been subject



to the formula under Section 21076 and had not been reinstated, adjusted, however, by any reduction under this section because of an election under Section 21461 and, for any service so credited that was included in coverage of the federal system during reinstatement, according to the formula applicable to the service in employment from which he or she was retired.

SEC. 16. Section 21362 of the Government Code is amended to read:

21362. (a) The current service pension for patrol members and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the patrol member or local safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of patrol service and local safety service subject to this section with which he or she is credited at retirement:

Age at retirement	Fraction
50 .....	1.0000
50 1/4 .....	1.0175
50 1/2 .....	1.0350
50 3/4 .....	1.0525
51 .....	1.0700
51 1/4 .....	1.0875
51 1/2 .....	1.1050
51 3/4 .....	1.1225
52 .....	1.1400
52 1/4 .....	1.1575
52 1/2 .....	1.1750
52 3/4 .....	1.1925
53 .....	1.2100
53 1/4 .....	1.2275
53 1/2 .....	1.2450
53 3/4 .....	1.2625
54 .....	1.2800
54 1/4 .....	1.2975



54 <sup>1</sup> / <sub>2</sub> .....	1.3150
54 <sup>3</sup> / <sub>4</sub> .....	1.3325
55 and over .....	1.3500

(b) (1) Except as otherwise provided in this subdivision, the current service pension and the combined current and prior service pensions under this section for all service to all employers shall not exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation.

(2) For state members, with respect to service for all state employers under this section, the benefit shall not exceed:

(A) Eighty percent of final compensation for state members who retire on or after January 1, 1995, and prior to January 1, 1999.

(B) Eighty-five percent of final compensation for state members who retire on or after January 1, 1999, and prior to January 1, 2000.

(C) Ninety percent of final compensation for state members who retire on or after January 1, 2000.

(3) For local safety members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation.

(4) If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall not apply to any contracting agency, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section is operative, by express provision in the contract making the contracting agency subject to the provisions of this section.

(d) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to patrol and local safety members who retire after the date this section becomes applicable to their respective employers.

(e) This section shall not apply to state safety or state peace officer/firefighter members.

(f) With respect to patrol members, this section shall only apply to patrol members who are not employed by the state on or after January 1, 2000.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

SEC. 17. Section 21362.1 of the Government Code is repealed.

SEC. 18. Section 21362.2 of the Government Code is amended to read:

21362.2. (a) Upon attaining the age of 50 years or more, the combined current and prior service pension for state patrol members and for local safety members with respect to local safety service rendered to a contracting agency that is subject to the provisions of this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of patrol service or local safety service subject to this section with which he or she is credited at retirement.

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 85 percent of final compensation. For state patrol members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) For patrol members employed by the state on or after January 1, 2000, this section shall supersede Section 21362.



(d) This section shall not apply to state safety or state peace officer/firefighter members.

(e) This section shall not apply to any contracting agency nor its employees unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section becomes operative, by express provision in the contract making the contracting agency subject to this section. The operative date of this section for a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(f) This section shall supersede Section 21362, 21363, 21363.1, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local safety members who retire after the date this section becomes applicable to their respective employers.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

(h) Operation and application of this section is subject to the limitations set forth in Section 21251.13.

SEC. 19. Section 21363 of the Government Code is amended to read:

21363. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter or local safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement.





Age at Retirement	Fraction
50 .....	1.0000
50 1/4 .....	1.0125
50 1/2 .....	1.0250
50 3/4 .....	1.0375
51 .....	1.0500
51 1/4 .....	1.0625
51 1/2 .....	1.0750
51 3/4 .....	1.0875
52 .....	1.1000
52 1/4 .....	1.1125
52 1/2 .....	1.1250
52 3/4 .....	1.1375
53 .....	1.1500
53 1/4 .....	1.1625
53 1/2 .....	1.1750
53 3/4 .....	1.1875
54 .....	1.2000
54 1/4 .....	1.2125
54 1/2 .....	1.2250
54 3/4 .....	1.2375
55 and over .....	1.2500

(b) (1) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 75 percent of final compensation.

(2) For state members, with respect to service for all state employers under this section, the benefit shall not exceed:

(A) Eighty percent of final compensation for state members who retire on or after January 1, 1995.

(B) Eighty-five percent of final compensation for state peace officer/firefighter members in State Bargaining Units 6 and 8 who retire on or after January 1, 1999, and prior to January 1, 2000.

(C) Ninety percent of final compensation for state peace officer/firefighter members who retire on or after January 1, 2000.

(3) For local safety members who retire on or after January 1, 2000, the benefit shall not exceed 85 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21369, and would otherwise exceed that maximum, the pension



payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member retiring on or after January 1, 1995, has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit, if any, shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(d) This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

(e) (1) This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1.

(2) This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(3) This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20396 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1.

(4) Nothing in this section or in any other provision of law affected by Chapter 1320 of the Statutes of 1984 or Chapter 234 of the Statutes of 1986 shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section



whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

(5) The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

(6) With the exception of state peace officer/firefighter members for service rendered for the California State University or the legislative or judicial branch of government, this section shall apply to state peace officer/firefighter members who are not employed by the state on or after January 1, 2000.

(f) This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

(g) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(h) This section shall not apply to a contracting agency nor its employees until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section. However, this section shall not apply to any local safety member in the employ of an employer not subject to this section on January 1, 2000.

SEC. 20. Section 21363.1 of the Government Code is amended to read:

21363.1. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service, and for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member or local safety member at the date of his or her retirement to equal the fraction of 3 percent of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace



officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50 .....	.800
50 $\frac{1}{4}$ .....	.810
50 $\frac{1}{2}$ .....	.820
50 $\frac{3}{4}$ .....	.830
51 .....	.840
51 $\frac{1}{4}$ .....	.850
51 $\frac{1}{2}$ .....	.860
51 $\frac{3}{4}$ .....	.870
52 .....	.880
52 $\frac{1}{4}$ .....	.890
52 $\frac{1}{2}$ .....	.900
52 $\frac{3}{4}$ .....	.910
53 .....	.920
53 $\frac{1}{4}$ .....	.930
53 $\frac{1}{2}$ .....	.940
53 $\frac{3}{4}$ .....	.950
54 .....	.960
54 $\frac{1}{4}$ .....	.970
54 $\frac{1}{2}$ .....	.980
54 $\frac{3}{4}$ .....	.990
55 and over .....	1.000

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 85 percent of final compensation. For state peace officer/firefighter members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect

to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall supersede Section 21363 for state peace officer/firefighter members with respect to service rendered for the California State University or the legislative or judicial branch of government.

(d) This section shall also supersede Section 21363 for state peace officer/firefighter members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) This section shall not apply to any contracting agency nor its employees unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section becomes operative, by express provision in the contract making the contracting agency subject to this section. The operative date of this section for a local safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(f) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local safety members who retire after the date this section becomes applicable to their respective employers.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(h) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(i) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

SEC. 21. Section 21363.5 of the Government Code is repealed.

SEC. 22. Section 21363.7 of the Government Code is repealed.

SEC. 23. Section 21364 of the Government Code is amended to read:

21364. A contracting agency may elect to be subject to Section 21362, 21362.2, or 21363.1 with respect to only those local safety members who are local police officers, those who are local firefighters,



and those who are local safety members as defined in Section 20421 as local safety members.

SEC. 24. Section 21369.1 of the Government Code is amended to read:

21369.1. (a) The combined current and prior service pensions for state safety members subject to this section with respect to state safety service that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state safety service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50 .....	0.8500
50 <sup>1</sup> / <sub>4</sub> .....	0.8625
50 <sup>1</sup> / <sub>2</sub> .....	0.8750
50 <sup>3</sup> / <sub>4</sub> .....	0.8875
51 .....	0.9000
51 <sup>1</sup> / <sub>4</sub> .....	0.9125
51 <sup>1</sup> / <sub>2</sub> .....	0.9250
51 <sup>3</sup> / <sub>4</sub> .....	0.9375
52 .....	0.9500
52 <sup>1</sup> / <sub>4</sub> .....	0.9625
52 <sup>1</sup> / <sub>2</sub> .....	0.9750
52 <sup>3</sup> / <sub>4</sub> .....	0.9875
53 .....	1.0000
53 <sup>1</sup> / <sub>4</sub> .....	1.0320
53 <sup>1</sup> / <sub>2</sub> .....	1.0630
53 <sup>3</sup> / <sub>4</sub> .....	1.0940
54 .....	1.1250
54 <sup>1</sup> / <sub>4</sub> .....	1.1570
54 <sup>1</sup> / <sub>2</sub> .....	1.1880
54 <sup>3</sup> / <sub>4</sub> .....	1.2190
55 and over .....	1.2500

(b) For state safety members with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer, and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) This section shall supersede Section 21369 for state safety members with respect to service rendered for the California State University.

(d) This section shall also supersede Section 21369 for state safety members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(g) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

SEC. 25. Section 21389 of the Government Code is repealed.

SEC. 26. Section 21400 of the Government Code is repealed.

SEC. 27. Section 21402 of the Government Code is repealed.

SEC. 28. Section 21403 of the Government Code is repealed.

SEC. 29. Section 21423 of the Government Code is amended to read:

21423. The disability retirement pension, other than an industrial disability retirement pension, for a member, other than a member who is subject to Section 21424 or 21427, shall be such an amount as with that portion of his or her annuity provided by his or her accumulated normal contributions, will make his or her disability retirement allowance equal to one of the following:

(a) Ninety percent of one-fiftieth of his or her final compensation multiplied by the number of years of service credited to him or her.





(b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service that would be creditable to him or her if his or her service were to continue until attainment by him or her of the age of 60 years, but in that case the retirement allowance shall not exceed one-third of final compensation.

This subdivision is not applicable to members who are not entitled, at the time of retirement, to be credited with at least 10 years of state service.

(c) If qualified for service retirement, the member shall receive his or her service retirement allowance if that allowance is greater than the disability retirement allowance provided by this section.

SEC. 30. Section 21465 of the Government Code is amended to read:

21465. (a) Optional settlement 5 consists of a partial distribution of the actuarial present value of the portion, as specified in this section, of the member's unmodified monthly allowance, as prescribed in Section 21362, 21362.2, 21363, or 21363.1, or Section 21423 when a service retirement allowance is payable. The actuarial present value shall be based upon the investment return and postretirement mortality assumptions adopted by the board for that purpose. The member may elect to receive the actuarial present value of no less than 20 percent and no more than 50 percent of his or her unmodified allowance. The member may elect to receive the remaining portion of the unmodified allowance, not distributed as a lump sum, under one of the settlements specified in this article for the remainder of his or her lifetime and thereafter to his or her designated beneficiary, unless this amount is solely limited to the survivor continuance portion. Under no circumstances shall the portion of the unmodified allowance equivalent to the survivor continuance pursuant to Section 21624 be distributed as a lump sum. Under no circumstances shall the benefits provided under this section exceed the benefits that would have otherwise been provided under any other section in this article.

(b) This section shall only apply to the following members who retire on or after January 1, 1999:

(1) State peace officer/firefighter members in State Bargaining Unit 6.

(2) State peace officer/firefighter members in State Bargaining Unit 8 and state patrol members in State Bargaining Unit 5, provided that a memorandum of understanding has been agreed upon by the state and the recognized employee organization to become subject to this section.



(3) This section shall also apply to state peace officer/firefighter members and state patrol members in related supervisory and confidential positions, provided the Department of Personnel Administration has approved their inclusion.

SEC. 31. Section 21465.5 of the Government Code is repealed.

SEC. 32. Section 21572 of the Government Code is amended to read:

21572. (a) In lieu of benefits provided in Section 21571, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid four hundred fifty dollars (\$450) per month if there is one child or five hundred thirty-eight dollars (\$538) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of two hundred twenty-five dollars (\$225) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.



(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid two hundred twenty-five dollars (\$225) per month.

(B) If there are two children, the children shall be paid four hundred fifty dollars (\$450) per month divided equally between them.

(C) If there are three or more children, the children shall be paid five hundred thirty-eight dollars (\$538) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid two hundred twenty-five dollars (\$225) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be eighty-eight dollars (\$88) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for a 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars (\$225) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him or her in a regular parent-child relationship at the time of his or her death.

(d) This section shall apply to beneficiaries receiving 1959 survivor allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

(e) This section shall apply, with respect to benefits payable on and after July 1, 1981, to all members employed by a school employer, and school safety members employed with a school district or community college district as defined in subdivision (i) of Section 20057, except that it shall not apply, without contract amendment, with respect to safety members who became members after July 1, 1981. All assets and



liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of all miscellaneous members employed by a school employer and all safety members who are members on July 1, 1981.

(f) This section shall not apply to any member in the employ of an employer not subject to this section on January 1, 1994.

(g) On and after January 1, 2000, and until January 1, 2010, all state members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all state members not covered by Section 21573 or 21574.7 shall be covered by this section.

SEC. 33. Section 21573 of the Government Code is amended to read:

21573. (a) In lieu of benefits provided in Section 21571 or Section 21572, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are under 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or



are so incapacitated, shall be paid seven hundred dollars (\$700) per month if there is one child, or eight hundred forty dollars (\$840) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of three hundred fifty dollars (\$350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars (\$350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars (\$700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars (\$840) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 62 years, and, with respect to that surviving spouse, who was either continuously married to the member for at least one year prior to death, or who was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid three hundred fifty dollars (\$350) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars (\$140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars (\$350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.



(d) This section shall apply to beneficiaries of state members whose death occurred before January 1, 1985. Where a surviving spouse attained the age of 62 years prior to January 1, 1987, entitlement shall exist retroactive to January 1, 1985, or to his or her 62nd birthday, whichever is later. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member, except as provided in subdivision (i), occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of Personnel Administration for classifications of state employees that are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members and to school safety members, as defined in Section 20444. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency that, in its original contract or by amending its contract, first elects effective on or after January 1, 1985, and prior to July 1, 2001, to make this article applicable to local members employed by the agency. On or after January 1, 1985, and prior to July 1, 2001, contracting agencies already subject to Section 21571 or Section 21572 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section. Any public agency first contracting with the board on or after January 1, 1994, and prior to July 1, 2001, or any contracting agency amending its contract to remove



exclusions of member classifications on or after January 1, 1994, and prior to July 1, 2001, that has not, pursuant to Section 418 of Title 42 of the United States Code, entered into an agreement with the federal government for the coverage of its employees under the federal system, shall be subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(i) This section shall not apply to beneficiaries with respect to the death of a state member employed by the California State University occurring on or after January 1, 1988, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(j) This section shall apply to local members employed by a contracting agency that has included this benefit in its contract with the board on or before June 30, 2001.

(k) This section shall not apply to any contracting agency that first contracts with the board on or after July 1, 2001.

(l) On and after January 1, 2000, and until January 1, 2010, all eligible state and school members covered by this section shall be covered by the benefit provided under Section 21574.7. On and after January 1, 2010, all eligible state and school members not covered by Section 21572 or 21574.7 shall be covered by this section.

SEC. 34. Section 21574 of the Government Code is amended to read:

21574. (a) In lieu of benefits provided in Section 21571, 21572, or 21573, if the death benefit provided by Section 21532 is payable on account of a local member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable,





the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the contracting agency, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand nine hundred dollars (\$1,900) per month if there is one child or two thousand two hundred eighty dollars (\$2,280) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of nine hundred fifty dollars (\$950) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid nine hundred fifty dollars (\$950) per month.

(B) If there are two children, the children shall be paid one thousand nine hundred dollars (\$1,900) per month divided equally between them.



(C) If there are three or more children, the children shall be paid two thousand two hundred eighty dollars (\$2,280) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid nine hundred fifty dollars (\$950) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred eighty dollars (\$380) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid nine hundred fifty dollars (\$950) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to members of a contracting agency that, by amending its contract, first elects effective on or after January 1, 1994, to make this section applicable to local members employed by the agency. On and after January 1, 1994, contracting agencies already subject to Section 21571, 21572, or 21573 may elect by contract amendment to be subject to this section. A public agency first contracting with the board or amending its contract to remove exclusions of member classifications on or after July 1, 2001, shall include this section or Section 21574.5 in its contract. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(e) The rate of contribution of an employer subject to this section shall be calculated using the term insurance valuation method. If a contracting agency that is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, the surplus shall be applied to reduce its rate of contribution. If a contracting agency that is subject to this section has a deficit in its

1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution shall be increased until the deficit is paid.

(f) This section or Section 21574.5 shall apply to public agencies, employing eligible school safety members as defined in Section 20444, that first contract with the board on or after July 1, 2001.

(g) At the time the single benefit level provided under Section 21574.5 exceeds the single benefit level provided under this section, no new contracts or amendments to contracts shall provide for the benefits under this section.

SEC. 35. Section 21574.5 of the Government Code is amended to read:

21574.5. (a) In lieu of benefits provided in Section 21571, 21572, 21573, or 21574, if the death benefit provided by Section 21532 is payable on account of a local member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the contracting agency, shall be paid:

(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand dollars (\$1,000) per month if there is one child or one thousand five hundred dollars (\$1,500) per month if there are two or more children. If there also are children who



are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of five hundred dollars (\$500) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid five hundred dollars (\$500) per month.

(B) If there are two children, the children shall be paid one thousand dollars (\$1,000) per month divided equally between them.

(C) If there are three or more children, the children shall be paid one thousand five hundred dollars (\$1,500) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid five hundred dollars (\$500) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be five hundred dollars (\$500) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid five hundred dollars (\$500) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to members of a contracting agency that, by amending its contract, first elects on or after January 1, 2000, to make this section applicable to local members employed by the agency. On and after January 1, 2000, contracting agencies already subject to Section 21571, 21572, or 21573 may elect by contract amendment to be subject to this section. A public agency that first contracts with the board



or amends its contract to remove exclusions of member classifications on or after July 1, 2001, shall include this section or Section 21574 in its contract. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency that is subject to this section.

(e) This section or Section 21574 shall apply to public agencies that employ eligible school safety members, as defined in Section 20444, and that first contract with the board on or after July 1, 2001.

(f) The rate of contribution of an employer subject to this section shall be calculated using a method determined by the board.

(g) In each subsequent year following the enactment of this section, the benefits prescribed by this section shall be indexed at a rate of 2 percent per year for both beneficiaries already receiving the benefit and for potential beneficiaries of members who die in the future.

SEC. 36. Section 21574.7 of the Government Code is amended to read:

21574.7. (a) In lieu of benefits provided in Section 21571, 21572, or 21573, if the death benefit provided by Section 21532 is payable on account of a state member's death that occurs under circumstances other than those described in subparagraph (F) of paragraph (1) of subdivision (a) of Section 21530, or if an allowance under Section 21546 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving spouse of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of a disability that began before and has continued without interruption after the attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving spouse of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21532 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21546, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the employer, shall be paid:



(1) A surviving spouse who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid one thousand five hundred dollars (\$1,500) per month if there is one child or one thousand eight hundred dollars (\$1,800) per month if there are two or more children. If there also are children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, that is in excess of seven hundred fifty dollars (\$750) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no surviving spouse, or if the surviving spouse dies, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid seven hundred fifty dollars (\$750) per month.

(B) If there are two children, the children shall be paid one thousand five hundred dollars (\$1,500) per month divided equally between them.

(C) If there are three or more children, the children shall be paid one thousand eight hundred dollars (\$1,800) per month divided equally among them.

(3) A surviving spouse who has attained or attains the age of 60 years, and who was either continuously married to the member for at least one year prior to death, or was married to the member prior to the occurrence of the injury or onset of the illness that resulted in death, shall be paid seven hundred fifty dollars (\$750) per month. No allowance shall be paid under this paragraph while the surviving spouse is receiving an allowance under paragraph (1) or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be three hundred dollars (\$300) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies and there is no surviving child, or if the surviving spouse dies and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 60 years, and who received at least one-half of his or her support from the



member at the time of the member's death, shall be paid seven hundred fifty dollars (\$750) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall only apply to state and school members effective on or after January 1, 2000.

(e) All assets and liabilities of state employers subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of state members employed by the state.

(f) All assets and liabilities of school employers, as defined in Section 20063, that are subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section.

(g) The rate of contribution of an employer subject to this section shall be calculated using a method determined by the board. Surplus assets shall be applied to reduce the rate of contribution. If a deficit exists, the rate of contribution shall be increased until the deficit is paid.

(h) On and after January 1, 2000, and until January 1, 2010, all state employees and school members shall be covered by this section.

(i) This section shall be repealed on January 1, 2010, unless a later enacted statute, that becomes effective on or before January 1, 2010, deletes or extends that date.

SEC. 37. The provisions of this act, other than the provisions of Section 1, shall be operative retroactively to January 1, 2000.

SEC. 38. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the benefits enacted by Chapter 555 of the Statutes of 1999 are implemented as intended and to facilitate appropriate clarification for the proper administration of those benefits, it is necessary for this act to take effect immediately.

